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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/806,794	04/04/2001	Larry D. Bass	20407-67855	7793

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Barnes & Thornburg  
11 South Meridian Street  
Indianapolis, IN 46204

EXAMINER
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HAYES, JOHN W

ART UNIT	PAPER NUMBER
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3621

DATE MAILED: 02/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/806,794

Applicant(s)

BASS, LARRY D.

Examiner

John W Hayes

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 April 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 2-23 and 25-46 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-23 and 25-46 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 April 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3. 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Status of Claims*

1. Claims 2-12, 15-23, 25-35 and 38-46 have been amended and claims 1 and 24 have been canceled in the preliminary amendment filed 04 April 2001. Thus, claims 2-23 and 25-46 remain pending and are presented for examination.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 2-23, 25-28 and 32-46 are rejected under 35 U.S.C. 102(b) as being anticipated by Shah et al, U.S. Patent No. 5,636,122.

As per **Claims 2-23**, Shah et al disclose a dispatch management system for maintaining information on the status of vehicles, the system including:

- a host (Figure 8; Col. 8 line 55-Col. 9 line 15; Col. 11, lines 1-15; Col. 12, lines 35-45; Col. 13, lines 4-15)
- at least one terminal coupled to the host for the entry of an order for the dispatch of a vehicle (Figure 8; Col. 8 line 55-Col. 9 line 15; Col. 11, lines 1-15; Col. 12, lines 35-45; Col. 13, lines 4-15);
- a terminal for updating the dispatch status of the vehicle, generating an order confirmation and generating reports (Figures 10-11; Col. 13, lines 10-18; Col. 15, lines 4-10; Col. 17, lines 12-27);
- a host for creating machine readable code and vehicle identifiers (Figures 8, 10-11; Col. 6, lines 14-20);
- a host for creating a visual indication based on a criterion (Figures 5-6);

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- a host for automatically changing information based on a criterion (Figures 8, 10-11; Col. 15, lines 4-10; Col. 17, lines 12-27);
- a host for searching for information based on a criterion (Figures 8, 10-11; Col. 15, lines 5-10)
- a host for controlling access and identifying individuals who modify information (Figures 8, 10-11; Col. 11, lines 1-5; Col. 13, lines 20-45)

Furthermore, claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function, *In re Danly*, 263 F.2d 844, 847, 120 USPQ 528, 531 (CCPA 1959). A claim containing a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus" if the prior art apparatus teaches all the structural limitations of the claim. *Ex parte Masham*, 2 USPQ2d 1647 (Bd Pat. App. & Inter. 1987). Thus, the structural limitations of claim 1, including a host and at least one terminal coupled to the host are disclosed in Shah et al as described above. Thus, the functional limitations related to storing particular types of information such as time stamps, status of the order, order completion data, whether or not the vehicle can be driven or needs to be towed, whether a key is available, information on the status of a vehicle, assignment of a driver do not further distinguish the structure of the system.

As per **Claims 2-3, 11 and 25-26**, Shah et al disclose a dispatch management system for maintaining information on the status of vehicles, the system including:

- a host (Figure 8; Col. 8 line 55-Col. 9 line 15; Col. 11, lines 1-15; Col. 12, lines 35-45; Col. 13, lines 4-15)
- at least one terminal coupled to the host for the entry of an order for the dispatch of a vehicle by a customer (Figure 8; Col. 8 line 55-Col. 9 line 15; Col. 11, lines 1-15; Col. 12, lines 35-45; Col. 13, lines 4-15);
- wherein the information includes a time stamp for indicating when a transaction is ordered by a customer (Figure 10; Col. 14, lines 50-55; Col. 16, lines 33-36).

As per **Claims 4-5 and 27-28**, Shah et al disclose a dispatch management system for maintaining information on the status of vehicles, the system including:

- a host (Figure 8; Col. 8 line 55-Col. 9 line 15; Col. 11, lines 1-15; Col. 12, lines 35-45; Col. 13, lines 4-15)
- at least one terminal coupled to the host for the entry of an order for the dispatch of a vehicle (Figure 8; Col. 8 line 55-Col. 9 line 15; Col. 11, lines 1-15; Col. 12, lines 35-45; Col. 13, lines 4-15);
- wherein the information includes the status of an order (Figure 11);
- wherein the information includes whether placement of the order by the customer is complete (Col. 15, lines 4-35)

As per **Claims 9-10 and 32-34**, Shah et al disclose a dispatch management system for maintaining information on the status of vehicles, the system including:

- a host (Figure 8; Col. 8 line 55-Col. 9 line 15; Col. 11, lines 1-15; Col. 12, lines 35-45; Col. 13, lines 4-15)
- at least one terminal coupled to the host for the entry of an order for the dispatch of a vehicle by a customer (Figure 8; Col. 8 line 55-Col. 9 line 15; Col. 11, lines 1-15; Col. 12, lines 35-45; Col. 13, lines 4-15);
- apparatus for generating machine-readable code such as a vehicle identifier for updating vehicle information (Figures 5, 8, 10-11; Col. 6, lines 14-33).

As per **Claims 12 and 35**, Shah et al disclose a dispatch management system for maintaining information on the status of vehicles, the system including:

- a host (Figure 8; Col. 8 line 55-Col. 9 line 15; Col. 11, lines 1-15; Col. 12, lines 35-45; Col. 13, lines 4-15)
- at least one terminal coupled to the host for the entry of an order for the dispatch of a vehicle (Figure 8; Col. 8 line 55-Col. 9 line 15; Col. 11, lines 1-15; Col. 12, lines 35-45; Col. 13, lines 4-15);

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- the information on the status of the vehicle including vehicle original location as well as destination location and other information (Figures 10-11).

As per **Claims 13 and 36**, Shah et al further disclose wherein the vehicle's identity includes a vehicle identification number (Figure 5; Col. 6, lines 15-20).

As per **Claims 14 and 37**, Shah et al further disclose wherein the terminal includes a terminal for updating the dispatch status of the vehicle (Figure 10-11; Col. 15, lines 4-10, Col. 17, lines 12-27).

As per **Claims 15, 18, 38 and 41**, Shah et al further disclose wherein the information on the status of the vehicle includes the assignment of a driver for the vehicle (Figure 5; Col. 10, lines 50-52; Col. 15, lines 14-30).

As per **Claims 16 and 39**, Shah et al further disclose wherein the terminal includes a terminal for generating order confirmation (Col. 13, lines 10-45).

As per **Claims 17 and 40**, Shah et al further disclose means for generating reports from information collected by the system (Figure 11; Col. 13, lines 10-18).

As per **Claims 19 and 42**, Shah et al further disclose a host for creating/displaying a visual indication based on a criterion (Figures 5-6).

As per **Claims 20 and 43**, Shah et al further disclose a host for automatically changing information based on a criterion (Col. 15, lines 4-10, Col. 17, lines 12-27).

As per **Claims 21 and 44**, Shah et al further disclose a host for searching for information based on a criterion (Col. 15, lines 5-10).

As per **Claims 22-23 and 45-46**, Shah et al further disclose a host for controlling access to the system for changing information and identifying individuals who modify stored information (Figures 8, 10-11; Col. 11, lines 1-5; Col. 13, lines 20-45).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 6-8 and 29-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shah et al, U.S. Patent No. 5,636,122 in view of Smith et al, U.S. Patent No. 6,430,496 B1.

As per **Claims 6-8 and 29-31**, Shah et al further disclose information regarding the dispatching of vehicles such as vehicle ready time, delivery time, service type, vehicle type and other information and further disclose that other forms of data may also be captured depending upon the particular application (Col. 13, lines 30-33; Col. 14, lines 50-55). Shah et al fail to explicitly disclose wherein the information includes whether the vehicle can be driven. Smith et al disclose a fully automated vehicle dispatching system and further teach wherein the system may store information regarding the vehicle such as whether it is available or not (Col. 1, lines 55-65; Col. 11, lines 34-40; Col. 14, lines 20-24) which indicates that the vehicle can be driven. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the method of Shah et al and include information regarding the status of the vehicle such as whether it can be driven or not as suggested by Smith et al. This would enable the dispatchers to only dispatch vehicles which are available and can be driven.

Furthermore, the various types or elements of data that can be stored or maintained by the system such as whether the vehicle must be towed or whether a key for operating the vehicle is available

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are directed to non-functional descriptive material and are not functionally involved in the steps recited. The steps of storing or maintaining various types or forms of data would be performed the same regardless of the descriptive material since none of the steps explicitly interact therewith. Limitations that are not functionally interrelated with the useful acts, structure, or properties of the claimed invention carry little or no patentable weight. Thus, this descriptive material will not further distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

Therefore, it would also have been obvious to a person of ordinary skill in the art at the time of applicant's invention to store or maintain by type or form of data because such data does not functionally relate to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

### ***Conclusion***

6. **Examiner's Note:** Examiner has cited particular columns and line numbers in the references as applied to the claims below for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Nathanson et al disclose a transportation dispatch and delivery tracking system
- Trask discloses a vehicle allocation system
- Paredes discloses an automated vehicle dispatch system
- Bunn discloses an automated vehicle tracking and service provisioning system



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8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Hayes whose telephone number is (703)306-5447. The examiner can normally be reached Monday through Friday from 5:30 to 3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jim Trammell, can be reached on (703) 305-9768.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Any response to this action should be mailed to:

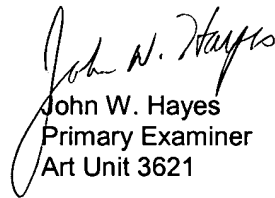
***Commissioner of Patents and Trademarks  
Washington D.C. 20231***

or faxed to:

**(703) 872-9306** [Official communications; including  
After Final communications labeled  
"Box AF"]

**(703) 746-5531** [Informal/Draft communications, labeled  
"PROPOSED" or "DRAFT"]

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington,  
VA, 7<sup>th</sup> floor receptionist.

  
John W. Hayes  
Primary Examiner  
Art Unit 3621

January 16, 2004